

State of California
Department of Resources Recycling and Recovery

Public Hearing to Consider
The Completion of Compliance Order IWMA BR09-001
For the City of Clearlake, County of Lake

February 19, 2013
10:00 AM
Byron Sher Auditorium

I. ISSUE

The City of Clearlake (City) has reported to the Department of Resources Recycling and Recovery (CalRecycle) its successful completion of all the requirements stipulated in Compliance Order IWMA BR09-001 (Compliance Order; Attachment 1). The City presented its progress through its 2011 annual report and its quarterly reports required by the Compliance Order. In addition, CalRecycle staff has conducted several site visits to the City to verify program implementation. Staff's most recent site visit was in December 2012 (see Attachment 2).

Public Resources Code 41850 and the Compliance Order require CalRecycle to hold a public hearing to determine if the City has complied with all of the conditions and requirements of the Compliance Order.

II. ITEM HISTORY

On February 24, 2009, the California Integrated Waste Management Board (predecessor of the Department of Resources Recycling and Recovery – [CalRecycle]), issued Compliance Order IWMA BR09-001 (CO) to the City of Clearlake. The issuance was based on the City's failure to adequately implement its diversion programs.

On October 29, 2010, the City submitted a Time Extension request with an Amended Local Implementation Plan (LIP) (Attachment 3). The request was made due to the City's dire financial situation, layoff of most of its staff and its inability to fully implement the CO. Staff worked extensively with the City to identify effective, low-cost diversion programs.

On December 14, 2011, CalRecycle's Deputy Director, Waste Compliance and Mitigation Program, granted the City's request to extend the deadline of the CO's LIP from February 28, 2010 to July 31, 2011. This approval also extended the one-year monitoring period following full LIP implementation to July 31, 2012.

III. OPTIONS FOR CONSIDERATION

1. Find that the City of Clearlake has fully implemented the requirements of Compliance Order IWMA BR09-001.
2. Direct staff to modify Compliance Order IWMA BR09-001 to reflect additional programs that the City of Clearlake would need to implement. Direct staff to work with the City to extend the overall timeframe of the Compliance Order.
3. Find that the City of Clearlake is non-compliant for failing to meet the requirements of the Compliance Order. Direct staff to schedule a public hearing to consider fining the City for failing to comply with the Compliance Order.

IV. STAFF RECOMMENDATION

Staff recommends Option 1: Find that the City of Clearlake has fully implemented the requirements of Compliance Order IWMA BR09-001.

Approving the completion of the City's Compliance Order will commence the transfer of the City from the Jurisdiction and Product Compliance Unit (JPCU) back to the Local Assistance and Market Development (LAMD) Branch. LAMD will review the City in the next two-year cycle, 2016, which commences with the submission of the 2014 and 2015 annual reports. LAMD will continue to monitor the City's program implementation. This will provide the Department with the ability to monitor the City's overall efforts to continue implementing programs. This does not impact the Department's ability to exercise its option to review the City's efforts at any time, should an independent compliance review by JPCU be warranted (PRC Section 41825(b)).

V. ANALYSIS

On February 24, 2009, CalRecycle issued Compliance Order IWMA BR09-001 to the City of Clearlake due to the City's failure to adequately implement its diversion programs.

The Compliance Order [Section 3.1] required the City to submit a LIP by March 31, 2009, and fully implement the LIP by February 28, 2010. The Compliance Order also included a one-year monitoring period scheduled to end February 28, 2011.

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As the City implemented the CO, the City recognized the need to review and update their franchise agreement. On August 11, 2011, the City reported the adoption of a new

franchise agreement. The agreement enhanced the services provided by the hauler, and increased overall effectiveness of all waste diversion programs.

Existing Jurisdiction Conditions

The City of Clearlake was incorporated in 1980. The City of Clearlake, California is located in Lake County (County), 4.5 miles northwest of Lower Lake at an elevation of 1,417 feet southwest of Hwy 20. The City encompasses an area of 10.581 square miles of which 0.452 square miles are covered with water. According to the 2010 United States Census, the City has an estimated population of 15,228.

Key Jurisdiction Conditions				
Calculated Disposal Rate (Lbs/person/day)		Waste Stream Data		
<i>50% per Capita Disposal Target (2007)</i>	<i>2011*</i>	<i>Population (2010)</i>	<i>Non-Residential Waste Stream Percentage (2006)</i>	<i>Residential Waste Stream Percentage (2006)</i>
4.3	3.7	15,228	73	27

*City of Clearlake – 2011 Annual Report (LAMD reviewed)

Staff's Assessment

After analyzing the City's reports and monitoring the City's program development, CalRecycle staff believes that the City implemented the LIP programs and made all reasonable and feasible efforts to fulfill the City's diversion requirements. The complete program listing (Attachment 4) reflects the 33 programs that the City has in place. The City staff intends to continue to implement, monitor, and improve all programs as necessary.

On December 13, 2012, staff conducted a site visit to evaluate the City's diversion programs. The following table summarizes the City's implementation progress for each LIP program:

<i>School Diversion Program</i>	<p><i>Implemented.</i></p> <p>The City discontinued free waste collection at the schools. The schools now have an incentive to reduce waste and recycle.</p> <p>To support the schools, the City's franchise hauler is providing outreach and education in the form of on-site trainings, school rallies, loaning of children's books about recycling and composting, etc. This effort has resulted in one of two K-8 schools implementing a rigorous recycling program.</p> <p>The City is continuing to work with the school district's superintendent to implement a similar program in the second K-8 school.</p> <p>Staff's assessment is that this program is working; however, continued outreach and education is needed.</p>
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<i>Improve Self-Haul Recycling Program at Landfill</i>	<p><i>Implemented</i></p> <p>The City and County have cooperated to increase diversion of recyclables from the County owned landfill. This was accomplished through the following:</p> <ul style="list-style-type: none">• Improved signage at the landfill.• Encouraging residents and businesses to recycle yard waste and construction and demolition (C&D) materials at the Quackenbush Mountain Resource Recovery and Compost Facility (QMRRCF) and all other recyclables at the buy-back center operated just before the entrance to the landfill.• Disincentive program- a 50% surcharge is assessed for loads that have 25% or more recyclables. This and all fees are posted on the road leading to the landfill gate. <p>Staff's observations of self-haulers at the landfill indicated that the program is working. The amount of recyclables disposed was significantly less than before the CO. At this time there is adequate signage to promote and inform customers about the recycling opportunities.</p> <p>Staff's assessment is that this program is effective with regards to the City residents. However, with regards to the region as a whole, the County should continue to evaluate this effort to determine its effectiveness in the longer term.</p>
<i>Commercial Recycling Program</i>	<p><i>Implemented</i></p> <p>The City adopted a mandatory commercial recycling ordinance on June 7, 2012.</p> <p>Of the 208 commercial accounts, 115 have bins varying in sizes from half (0.5) a cubic yard up to six (6) cubic yards. The remaining 93 accounts use toters of various sizes (32, 64 and 96 gallons).</p> <p>To achieve this level of participation, the franchise hauler:</p> <ul style="list-style-type: none">• Identified businesses not subscribing to recycling service.• Contacted each business to offer a waste assessment and program development assistance.• Distributed appropriately-sized recycling receptacles based on generation of recyclables.• Regularly attends monthly Chamber of Commerce meetings to provide ongoing education regarding commercial recycling. <p>The City has been so successful with this program that one of the larger grocery stores has expanded their efforts to collect not only cardboard but also paper, glass, plastic, and aluminum.</p>

	<p>Efforts are underway to also capture the film plastics generated by this grocery store.</p> <p>All new commercial businesses that receive a business permit/license now receive a recycling information packet that provides information on recycling and the availability of a free waste assessment.</p> <p>Staff observed clean high-value recyclables being captured in the recycling bins and less recyclables within the trash bins than before the CO.</p> <p>Staff's assessment is that this program is effective.</p>
<p><i>Outreach and Education Program</i></p>	<p><i>Implemented</i></p> <p>The City's outreach and education has significantly expanded. With support from their franchise hauler, the City has:</p> <ul style="list-style-type: none"> • Provided multi-family complex occupants recycling information by going door to door. • Distributed letters to the owners and managers of multi-family complexes informing them of the City's mandatory recycling requirements. • Mailed a billing insert and <u>Clearlake Recycling News</u> letter providing information on: <ul style="list-style-type: none"> ▪ How to keep recycling clean ▪ Holiday schedule ▪ Recycling education and waste assessment services ▪ Debris box services and clean-up bins ▪ Non-ferrous metal purchasing location ▪ Pre-paid garbage bag service for vacation homes or for those who do not generate enough for weekly services. <p>The City has also worked to increase recycling awareness by developing and revising the brochures and flyers describing the residential and businesses recycling programs. The brochures and flyers include but are not limited to:</p> <ul style="list-style-type: none"> • Single-Stream Recycling • Yard Waste Recycling • 10 Reasons Why to Recycle • Closing the Loop – Buy Recycled/Web Resources • Avoid Recycling Contamination <p>Additional publications from the County, CalRecycle and Keep America Beautiful are also made available.</p> <p>The City tracks the location of the brochures and fliers and the dates billing inserts are distributed. This helps to assure that the supplies at City Hall, Chamber of Commerce, and the public library are stocked and current.</p>

	<p>The City is also using large public events such as the Clearlake Annual 4th of July Festival for public education and outreach. A staffed display booth provides recycling information and opportunities to residents and visitors. The City has reported success from this effort.</p> <p>Staff's assessment is that this program is effective.</p>
<i>Quarterly and Annual Reporting</i>	<p><i>Implemented.</i></p> <p>The City maintained its Compliance Documentation Binder and submitted all required quarterly and annual reports on time.</p>
<i>Additional Efforts Implemented by the City Outside of the Compliance Order</i>	
<i>Community Clean-up Days</i>	<p>The City has reported additional efforts to increase recycling awareness and diversion of waste. They include:</p> <ul style="list-style-type: none"> • Community clean-up events. Two events were reported to staff. <ul style="list-style-type: none"> ○ The 2012 California Coastal Cleanup Day. Through this event the community collected and diverted 160 tires and 20 cubic yards of mixed waste which was materials recovery facility (MRF) processed. ○ The Clearlake Community Cleanup Day. In 2012, the City reported this annual event collected 1,500 lbs. of e-waste and 45 cubic yards of mixed waste which was MRF processed.

Overview of the Options CalRecycle has Regarding Compliance Orders

Determination of Completion

Once a jurisdiction has reported full implementation of all of the conditions and terms of a Compliance Order, CalRecycle has the following general responsibilities regarding the consideration of the completion of the Compliance Order:

CalRecycle shall hold a public hearing to determine whether or not the jurisdiction has fully implemented the Compliance Order (PRC Section 41850(a)). This includes, but is not limited to, determining if the jurisdiction has done the following:

- Made a good faith effort to fully implement all of its Local Assistance Plan and Source Reduction and Recycling Element selected programs (PRC Section 41850(b)); and
- Met the diversion requirements of PRC Section 41780 (PRC Section 41850(b)).

Penalty Structure

CalRecycle may impose fines only after a jurisdiction fails to adhere to the Compliance Order and/or schedule of requirements. Fines may be levied according to the cause of failure to adequately implement a Source Reduction and Recycling Element and/or Household Hazardous Waste Element; staff would recommend to CalRecycle an appropriate level of penalty based on the criteria listed below.

1. “Serious” failure includes a jurisdiction that fails to implement its Source Reduction and Recycling Element or Household Hazardous Waste Element without reason or justification. The fine recommended for this type of violation would be no less than \$5,000 and up to the maximum \$10,000 per day.
2. “Moderate” failure includes a jurisdiction that fails to implement its Source Reduction and Recycling Element or Household Hazardous Waste Element due to mitigating circumstances that have no bearing on natural disasters, budgetary constraints and work stoppages. Mitigating circumstances would be determined on a case-by-case basis by CalRecycle. The fine recommended for this type of violation would be \$1,000 to \$5,000 per day.
3. “Minor” failure includes a jurisdiction that has implemented some or all programs, but has failed to meet the diversion requirements to some extent. Fines will be based on information provided by the jurisdiction and on statutory relief considerations. Fines, if determined to be appropriate, will be decided by CalRecycle on a case-by-case basis, and would range from \$1 per day up to \$1,000 per day.

A jurisdiction may only be fined after failing to adhere to the Compliance Order and schedule. Fines will continue until a jurisdiction has implemented the programs as outlined in the Compliance Order.

Notwithstanding the above penalty structure, if CalRecycle determines, on a case-by-case basis, that a jurisdiction demonstrates that it has made a good faith effort to implement its Source Reduction and Recycling Element and/or Household Hazardous Waste Element, including achieving the diversion requirements, CalRecycle shall not impose penalties.

VII. ATTACHMENTS

1. Compliance Order IWMA BR09-001
2. Site Visit Photo Report
3. Local Implementation Plan
4. City of Clearlake Waste Diversion Program and Diversion Rate Summary
5. Request for Action for the Completion of Compliance Order IWMA BR08-03

VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION

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